

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	NH	23/04/2019
Planning Development Manager authorisation:	SCE	23.04.19
Admin checks / despatch completed	RJ	25/4/19

SAC

Application: 19/00358/COUNOT **Town / Parish:** Beaumont Parish Council

Applicant: Mr and Mrs Smith

Address: Mulberry Harwich Road Beaumont Cum Moze

Development: Proposed conversion of agricultural buildings to three x 1 bedroom residential dwelling houses.

1. Town / Parish Council

Beaumont Parish Council have not commented on this application.

2. Consultation Responses

ECC Highways Dept

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic for the three residential dwellings and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety in accordance with policy DM1.

2. No unbound material shall be used in the surface treatment of the existing vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

3. Prior to the occupation of the proposed dwellings, the existing private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of the Highway Boundary.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with policy DM1.

(Continued....)

4. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to first occupation and

retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

5. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative 1: As per the information contained in The Planning Statement, under item 2.5 it will be necessary to undertake some maintenance to the existing hedgerow and cut back any overhanging trees adjacent to Harwich Road to ensure that a 2.4 metres parallel band visibility splay will be provided for the entire site frontage.

Informative 2: On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area it covers and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Informative 3: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:

SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

3. Planning History

18/01144/FUL	Alterations and extension.	Approved	06.09.2018
19/00358/COUNO T	Proposed conversion of agricultural buildings to three x 1 bedroom residential dwelling houses.	Current	

4. Relevant Policies / Government Guidance

N/A

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2018) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) was examined in January and May 2018 and the Inspector's initial findings were published in June 2018. They raise concerns, very specifically, about the three 'Garden Communities' proposed in north Essex along the A120 designed to deliver longer-term sustainable growth in the latter half of the plan period and beyond 2033. Further work is required to address the Inspector's concerns and the North Essex Authorities are considering how best to proceed.

With more work required to demonstrate the soundness of the Local Plan, its policies cannot yet carry the full weight of adopted policy, however they can carry some weight in the determination of planning applications. The examination of Section 2 of the Local Plan will progress once matters in relation to Section 1 have been resolved. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not. At the time of this decision, the supply of deliverable housing sites that the Council can demonstrate falls below 5 years and so the NPPF says that planning permission should be granted for development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole. Determining planning applications therefore entails weighing up the various material considerations. The housing land supply shortfall is relatively modest when calculated using the standard method prescribed by the NPPF. In addition, the actual need for housing was found to be much less than the figure produced by the standard method when tested at the recent Examination In Public of the Local plan. Therefore, the justification for reducing the weight attributed to Local Plan policies is reduced as is the weight to be given to the delivery of new housing to help with the deficit.

5. Officer Appraisal (including Site Description and Proposal)

Proposal

The proposal is to change the use of three agricultural buildings to Class C3 (Dwelling Houses) under the relaxed permitted development allowances as set out in Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015.

The proposed change of use would result in the creation of three 1 bed dwellings.

The resultant dwellings would have a cumulative floor area of 139.27sqm.

This is a "prior notification" under Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended. The applicant is seeking the Council's determination as to whether its "prior approval" is required for the change of use of the buildings to C3 (Residential).

Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2016 sets out that development consisting of a change of use of a building and any land within its curtilage to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order from use as an agricultural building shall not be permitted development where:

(i) on 20th March 2013, or

(ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or

(iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins;

- The buildings were in use for agricultural purposes as part of an agricultural unit on the 20th March 2013. This criterion is therefore met.

(b) in the case of—

(i) a larger dwellinghouse, within an established agricultural unit—

(a) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or

(b) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres;

No more than 3 dwellings are being created. The cumulative floor space for existing plots 1, 2 and 3 is 139.27 square metres. Therefore the criterion is met and have no other use since this time.

(c) in the case of—

(i) a smaller dwellinghouse, within an established agricultural unit—

(a) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or

(b) the floor space of any one separate smaller dwellinghouse having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres;

The proposal is for 3 dwellings to be created, all with a floor space of under 100 square metres. Therefore this criteria is met.

(d) the development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following—

(i) a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;

(ii) the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;

The total number of dwellings developed under Class Q is 3. The cumulative floor space amounts to 139.27sqm, remaining below the 465sqm threshold. Therefore this criterion is met.

(e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;

- It is not occupied under an agricultural tenancy. Therefore this criterion is met.

(f) less than 1 year before the date development begins—

(i) an agricultural tenancy over the site has been terminated, and

(ii) the termination was for the purpose of carrying out development under Class Q, unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use;

- No such agricultural tenancy has been terminated. Therefore this criterion is met.

(g) development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) has been carried out on the established agricultural unit—

(i) since 20th March 2013; or

(ii) where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date development under Class Q begins;

- No such development has been carried out. Therefore this criterion is met, although there is still an onus on the applicant to comply with criterion (g)(ii).

(h) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;

- The development would not extend from the existing building at any given point and therefore this criterion is met.

(h) the development under Class Q (together with any previous development under Class Q) would result in a building or buildings having more than 450 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;

- The cumulative floor space of this proposal is 139.27 square metres, whilst there has been no previous development under Class Q. Therefore this criterion is met.

(i) the development under Class Q(b) would consist of building operations other than;

(i) the installation or replacement of;

(aa) windows, doors, roofs, or exterior walls, or

(bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and

(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i);

- The works required for the conversion of these buildings are not considered to be excessive, and will involve the inclusion of additional doors and windows, replacement roofing and infilling between structural columns, that of which would be expected for a proposal of this nature.

Therefore the changes proposed are in accord with the items listed above and this criterion is met.

(j) the site is on article 2(3) land;

- The site is not on article 2(3) land. Therefore this criterion is met.

(k) the site is, or forms part of;

- (i) a site of special scientific interest;
- (ii) a safety hazard area;
- (iii) a military explosives storage area;

- The site is not, or does not form part of any of these interests or such areas. Therefore this criterion is met.

- (l) the site is, or contains, a scheduled monument; or

- The site does not include a scheduled monument. Therefore this criterion is met.

- (m) the building is a listed building.

- The building is not listed. Therefore this criterion is met.

In addition to the above requirements, condition Q.2.(1) requires the Local Planning Authority to consider as to whether the following issues would require prior approval (accompanied by officer comments in italics):

- (a) transport and highways impacts of the development,

- The plans show areas to the front and sides of each building for parking/turning purposes, whilst there is sufficient room for the parking at each plot. Further, access to all dwellings will be via an existing access point. There are no other material transport or highways impacts. Therefore, this criterion is met. Essex County Highways have been consulted on this application and do not raise any objections subject to conditions. As the site is accessed using the existing access from Harwich Road for agricultural purposes, condition 1 to 3 does not apply. Condition 4 and 5 which refer to cycle parking and storage areas does not relate to the considerations as part of the prior notification.

- (c) noise impacts of the development,

- The proposal would not result in any material noise impacts. Therefore, this criterion is met.

- (d) contamination risks on the site,

- The site is not located near to any land designated as contaminated land. Therefore, this criterion is met.

- (e) flooding risks on the site,

- The building is not within designated Flood Risk Zones 2 & 3. Therefore, this criterion is met.

- (f) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order, and

- Paragraph 109 of the National Planning Practice Guidance states:

"When considering whether it is appropriate for the change of use to take place in a particular location, a local planning authority should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements. That an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval. There may, however, be circumstances where the impact cannot be mitigated. Therefore, when looking at location, local planning authorities may, for example, consider that because an agricultural building on the top of a hill with no road access, power source or other services its conversion is impractical. Additionally the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals.

When a local authority considers location and siting it should not therefore be applying tests from the National Planning Policy Framework except to the extent these are relevant to the subject matter of the prior approval. So, for example, factors such as whether the property is for a rural worker, or whether the design is of exceptional quality or innovative, are unlikely to be relevant."

On this basis, the Local Planning Authority does not consider that the location or siting of the buildings would make it impractical or undesirable for the proposed change of use.

(g) the design or external appearance of the building,

The design of each plot will see the conversion from the existing structures. The proposals include additional doors and windows which would be expected. The design will see a conversion from the existing structures. However, the proposed changes involved are all minor works, with replacement materials and additional doors and windows. These would all be expected from such a proposal. Therefore the Local Planning Authority does not consider that the proposed development will have any significant impact on the design or external appearance of the building.

Representations

Beaumont Parish Council have not objected to this application.

Six letters of objection have been received and have raised the following concerns:

1. Business rates were not previously paid

The above concern is not a material planning consideration and therefore it has not been taken into consideration.

2. Concerns over the use of the existing plots

It was clear from the site visit that the plots were used for poultry rearing and for storage of agricultural items.

3. Concerns over the vehicular access in terms of visibility splays

Essex County Highways have been consulted on this application and this has been addressed within the report.

4. Concerns in relation to the rural location.

This application is for a prior approval and is addressed within the report above.

Conclusion

Having regard to the above it is considered that the change of use of the agricultural building to C3 (dwellinghouse) does not require Prior Approval, as it would meet the requirements set out in Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.

6. **Recommendation**

Determination prior approval not reqred

7. **Conditions / Reasons for Refusal**

- 1 Having regard to the above it is considered that the change of use of the agricultural building to C3 (dwellinghouse) does not require Prior Approval, as it would meet the

requirements set out in Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.

8. **Informatives**

N/A

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO